HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:24787 OF 2007

Dated: 22.11.2007

Between:

M/s. Sirpur Paper Mills Limited,
Sirpur-kaghaznagar, Adilabad District,
Rep., by its Chief Administrative Officer,
Ch. Seetharamaiah.

..Petitioner

And

The Assistant Commissioner
(Commercial Taxes), Large Tax
Payers Unit, Abids Division, Hyderabad.

..Respondent.

-

-

-

HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:24787 OF 2007

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioner seeking to quash the proceedings of the respondent, dated 24.10.2007 pertaining to the assessment year 2006-2007 by declaring the same as illegal and arbitrary.

It is the case of the petitioner that the respondent issued a show cause notice dated 20.9.2007 to the petitioner for the period from April, 2006 to March, 2007 proposing the denial of Input Tax Credit in respect of purchase of Coal, Iron, Cement and Steel and also proposing tax under Secs.4(4) (ii) in respect of the purchase of wood from the AMCs, for which, the petitioner filed objections in detail. The respondent gave personal hearing to the petitioner on 23.10.2007, but due to paucity of time, the petitioner was informed that next date of hearing would be fixed and intimated later on. But, without resorting to afford any opportunity and without considering the objections, surprisingly, the respondent straight away passed the assessment order dated 24.10.2007. Aggrieved by the said action, the present writ petition is filed.

The learned Counsel for the petitioner submitted that no reasons have been assigned while passing the order impugned and disallowing input tax on cement, iron and steel. Placing reliance upon the judgment of a Division Bench of this Court reported in *Kamadhenu Feeds (P) Ltd., Narakoduru, Chebrol Mandal, Guntur District Vs. The Commercial Tax*

Officer, Gandhichowk Circle, Tenali, Guntur District & Others[1] it is submitted that in similar circumstances, the matter was remanded for fresh disposal. Therefore, it is sought for remand of the matter for fresh consideration in view of the objections raised by the petitioner.

On the other hand, the learned Government Pleader opposed the said contention stating that the Officer has quoted rule position for levying proposed tax and as such, the question of assigning any reason while passing the order impugned, does not arise.

On hearing the rival contentions and perusing the judgment of the Division Bench of this Court (citation supra), we are of the opinion that it is mandatory on the part of the respondent to assign cogent reasons while assessing the tax. In the instant case, no such reasons have been assigned while assessing the tax at Rs.1,91,31,163/-. Apart from that, the objections raised by the petitioner appear to have not been considered while passing the order impugned.

In this background of the matter, We feel it a fit case wherein the matter can be remanded to the 1st respondent for fresh consideration subject to the condition of the petitioner depositing an amount of Rs.20,00,000/- (twenty lakhs) within a period of eight weeks from today. On such payment only, the respondent shall rehear the matter and pass fresh orders.

Subject to the above observation the writ petition is allowed remanding the matter for fresh consideration and orders in accordance with law. No order as to costs.

_____

Justice T. Meena Kumari

_____
Justice G. Rohini

Date: 22nd November, 2007
Nn.

HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:24787 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

22/11/2007

[1] APSTJ 2007 (45)